

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

In re:  
**Jarrold Erwin**  
Debtor

§  
§  
§

**Case No. 23-31315-H5-13**

**Chapter 13**

**APPLICATION TO EMPLOY ATTORNEY  
AS SPECIAL COUNSEL FOR LITIGATION**  
**[DAVID BERG]**

**THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.**

**REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEYS.**

**THE DEBTOR AND APPLICANT MAY REQUEST EXPEDITED CONSIDERATION OF THE APPLICATION.**

**Please take notice that a hearing regarding Application to Employ Special Counsel has been set for April 10, 2024, at 1:30 pm.**

**Parties may participate in person or electronically. To participate in person, the hearing will be at the United States Federal Courthouse 515 Rusk Ave., Houston, Texas 77002, courtroom 403.**

**FROM THE WEBSITE OF JUDGE NORMAN:**

All NON-EVIDENTIARY, UNCONTESTED OR UNOPPOSED EVIDENTIARY hearings will be held on a HYBRID BASIS. Parties may appear either remotely or in person unless the Court orders otherwise. Remote appearances shall be made both by video and telephone.

All EVIDENTIARY, CONTESTED OR OPPOSED trials or hearings will be held IN PERSON unless a hybrid trial or hearing is consented to by all parties. Parties shall at least two business day prior to any scheduled evidentiary hearing file a stipulation with an order seeking a hybrid trial or hearing. The Court will then, if approved, enter the order for a hybrid trial or hearing. Hybrid trials or hearings are NOT available if the Court has previously ordered in person appearance.

**To participate electronically, parties must follow the instructions set forth on Judge Norman's web page located at:**

<https://www.txs.uscourts.gov/page/united-states-bankruptcy-judge-jeffrey-p-norman>

**Parties are additionally instructed:**

The dial in number for hearings before Judge Norman is 832-917-1510 and the conference room number is 174086 and

For video appearances and witness testimony, parties are to utilize the **GoToMeeting** web-based application and enter conference code: judgenorman

**TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:**

COME NOW, Jarrod Erwin ("Debtor") and makes this Application to employ David Berg of the Law Office of David Berg ("Berg") as Special Counsel for Litigation in the bankruptcy and other federal litigation cases ("Application") and respectfully shows the Court as follows:

1. Debtor initially filed a voluntary petition for relief under chapter 7 of Title 11 (the "Bankruptcy Code") on April 7, 2023. On May 8, 2023 the case was converted to chapter 13.
2. The case is pending before the United States Bankruptcy Court for the Southern District of Texas, Houston Division.

3. As background, in 2014, Debtor, his brother, Ryan, and his late father, “Randy” Erwin (the “Parties”) entered into a prepaid retainer agreement with the Firm to represent the Parties, Motorskill Ventures, Inc, and its affiliates, in a pre-indictment investigation (“the Agreement”). The Parties were the late Joel Androphy’s client.
4. The retainer was funded fully in 2015 by a third party from funds not belonging to the Debtor. No charges have been filed in the pre-indictment matter. The retainer covered all services to be provided by Berg. As a result, no further amounts for fees or reimbursement for expenses will be due to Berg or any individual or entity on his behalf.
5. Since the disability in 2022, and death in 2023, of Joel Androphy, Berg has assumed his role, advising Debtor on the possible effect of developments in this bankruptcy, the MDL in Tennessee, styled, *In the Matter of the AME Church Employee Retirement Fund Litigation* MDL No. 1:22-md-03035 pending in the Western District Court of Tennessee (the “Litigation”) and an SEC inquiry, on the pre-indictment matter (the “Collective Matters”).
6. The professional services to be rendered on behalf of the Debtor by Berg are limited to advising Debtor, as special counsel, on the Collective Matters in the manner described in paragraph 5. Berg does not intend to make any in-court appearances in the bankruptcy.
7. Except as described, Berg does not hold or represent any interest adverse to Debtor’s estate in the matters on which Berg is representing the Debtor and his brother, Ryan. Berg is a “disinterested person” within the meaning of §101(14) of the Bankruptcy Code.
8. The continued services of Berg for the Collective Matters is beneficial to the estate and the Debtor.

9. To the knowledge of Applicant, no persons or parties will be prejudiced by the granting of this application.
10. Berg is duly admitted to practice in and is in good standing in the States of Texas and New York, and the United States District Courts for the Southern District of Texas. The Debtor selected the Firm because of its reputation and experience in litigation matters.
11. The Office of the United States Trustee has been provided with a copy of this Application.
12. No previous application for the relief requested herein has been made to this or any other Court, except as stated herein.
13. The Statement of the Attorney pursuant to Bankruptcy Rule 2014 is attached.
14. The Statement of the Attorney pursuant to Bankruptcy Rule 2016(b) is attached.

WHEREFORE, Debtor requests the entry of an order that authorizes the Debtor to employ David Berg as special litigation counsel in the Collective Matters on a fully paid retainer and grant the Debtor such other and further relief to which he may be entitled.

DATED: February 29, 2024

Respectfully submitted,

/s/ Reese W. Baker

**Reese W. Baker**

TX Bar No. 01587700

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Houston, Texas 77024

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(713) 869-9100 Fax

ATTORNEY FOR DEBTOR

**CERTIFICATE OF SERVICE**

I certify that on March 1, 2024, 2024, I caused a copy of the foregoing document to be delivered to the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

I also certify that on March 4, 2024, that this motion was sent by email to the following:

See Exhibit A

/s/ Reese W. Baker  
Reese W. Baker